

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513**

Baxley

Mailed: September 23, 2003

Cancellation No. 92/041,792

Cross Creek Seed, Inc. &
Coating Supply, Inc.

v.

F. W. Rickard Seeds, Inc.

Andrew P. Baxley, Interlocutory Attorney:

On September 12, 2003, Sam Baker, a non-party to this case, filed a communication and accompanying documents with the Board seeking reconsideration of the Board's July 11, 2003 order, wherein the Board suspended proceedings herein pending disposition of Case No. 1:02CV01004 in the United States District Court for the Middle District of North Carolina, and requesting that the Board cancel respondent's involved Registration No. 2,666,400.¹

¹ A copy of Mr. Baker's communication is enclosed with the parties' copies of this order.

Mr. Baker's August 2003 telephone calls to the above-signed Board attorney, which are discussed in his communication, are noted. Mr. Baker is advised that it is inappropriate to contact the Board by telephone to discuss the merits of the suspension order or any other issue having to do with this case. See Patent and Trademark Rule 10.93; TBMP Section 105.

Cancellation No. 41,792

Inasmuch as Mr. Baker is not a party to this proceeding, his communication and documents are not properly before the Board.² In addition, his communication does not include proof of service of thereof upon each party to this proceeding, as is required by Trademark Rule 2.119(a). Further, any request for reconsideration of the July 11, 2003 order was due not later than August 11, 2003. See Trademark Rule 2.127(b).

Based on the foregoing, Mr. Baker's communication will receive no consideration.³ Accordingly, the July 11, 2003 order stands as put.

Proceedings herein remain suspended pending final determination of Case No. 1:02CV01004.

cc: Sam Baker
927 Hatley-Burris Road
Stanfield, NC 28163

² Rather, if Mr. Baker believes he will be damaged by the involved registration, he may commence his own cancellation proceeding by filing a petition to cancel, together with the required filing fee. See Trademark Rule 2.111; TBMP Sections 303 and 307-309.

³ In any event, for reasons set forth in detail in the July 11, 2003 order, suspension of this case under the circumstances at issue is entirely consistent with standard Board practice. See Trademark Rule 2.117(a); TBMP Section 510.02(a).